

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 833

Introduced by Senator Vargas
(Coauthor: Assembly Member Hueso)

February 18, 2011

An act to ~~amend Section 44002 of~~ *add Section 44000.6* to the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 833, as amended, Vargas. Solid waste: *disposal* facilities ~~permit~~.: *San Diego County*.

The

(1) *The California Integrated Waste Management Act of 1989 regulates the management of solid waste. The act authorizes that the California Integrated Waste Management Board may designate and certify a local enforcement agency within each county to carry out specified powers and duties, and requires the board and certified local enforcement agencies to perform specified functions with regard to the regulation of solid waste management, including the issuance of solid waste facilities permits.*

Existing law prohibits the operation of a solid waste facility without a solid waste facilities permit and ~~authorizes an enforcement agency to issue a solid waste facilities permit only if it determines that the permit application is consistent with the requirements of the act~~ *prohibits a person from disposing of solid waste, causing solid waste to be disposed of, arranging for the disposal of solid waste, transporting solid waste, or accepting solid waste for disposal, except at a permitted solid waste disposal facility. A violation of the provisions prohibiting the disposal of solid waste is a crime.*

~~This bill would additionally prohibit an enforcement agency from issuing a solid waste facilities permit, on or after January 1, 2012, if that permit would allow the disposal of solid waste within 500 feet of a river that supplies any aquifer that provides drinking water for more than 50,000 persons, or within 1,000 feet of a site considered to be sacred and of spiritual importance to a federally recognized Indian tribe. prohibit a person from constructing or operating a solid waste landfill disposal facility located in the County of San Diego if that disposal facility is located within 1,000 feet of the San Luis Rey River or an aquifer that is hydrologically connected to that river and is within 1,000 feet of a site that is considered sacred or of spiritual or cultural importance to a tribe and is listed in the California Native American Heritage Commission Sacred Lands Inventory.~~

The bill would require the enforcement agency to enforce a violation of this prohibition by the immediate issuance of a cease and desist order, thereby imposing a state-mandated local program by imposing a new duty upon local agencies.

The bill would make a declaration of legislative findings regarding why a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

Because a violation of this bill's requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 44000.6 is added to the Public Resources*
- 2 *Code, to read:*
- 3 **44000.6.** *(a) Notwithstanding any other provision of this*
- 4 *division, a person shall not construct or operate a solid waste*
- 5 *landfill disposal facility in the County of San Diego if that disposal*
- 6 *facility meets both of the following conditions:*

1 (1) Any portion of the disposal facility is located on or within
2 1,000 feet of the San Luis Rey River or an aquifer that is
3 hydrologically connected to that river.

4 (2) The disposed facility is located on or within 1,000 feet of a
5 site that is considered sacred or of spiritual or cultural importance
6 to a tribe, as defined in Section 44201, and that is listed in the
7 California Native American Heritage Commission Sacred Lands
8 Inventory.

9 (b) This section does not apply to a permitted disposal facility
10 at which solid waste was disposed of before January 1, 2012, or
11 to the expansion of that facility.

12 (c) The enforcement agency shall enforce a violation of this
13 section by the immediate issuance of a cease and desist order
14 pursuant to Section 45005.

15 SEC. 2. The Legislature finds and declares that, due to the
16 unique circumstances arising from a proposal to construct and
17 operate a solid waste landfill that would be located adjacent to
18 the San Luis Rey River and its drinking water supplies and to sites
19 considered sacred by numerous Native American tribes, and given
20 the unique relationship between the state government and tribal
21 governments in the state, a statute of general applicability cannot
22 be enacted within the meaning of subdivision (b) of Section 16 of
23 Article IV of the California Constitution, and therefore this special
24 statute is necessary.

25 SEC. 3. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the costs may be incurred by a local agency or school district
28 because this act creates a new crime or infraction, eliminates a
29 crime or infraction, or changes the penalty for a crime or
30 infraction, within the meaning of Section 17556 of the Government
31 Code, or changes the definition of a crime within the meaning of
32 Section 6 of Article XIII B of the California Constitution or because
33 a local agency or school district has the authority to levy service
34 charges, fees, or assessments sufficient to pay for the program or
35 level of service mandated by this act, within the meaning of Section
36 17556 of the Government Code.

37 ~~SECTION 1. Section 44002 of the Public Resources Code is~~
38 ~~amended to read:~~

1 ~~44002. (a) (1) A person shall not operate a solid waste facility~~
2 ~~without a solid waste facilities permit if that facility is required to~~
3 ~~have a permit pursuant to this division.~~

4 ~~(2) The prohibition specified in paragraph (1) includes, but is~~
5 ~~not limited to, the operation of a solid waste facility without a~~
6 ~~required solid waste facilities permit or the operation of a solid~~
7 ~~waste facility outside the permitted boundaries specified in a solid~~
8 ~~waste facilities permit.~~

9 ~~(b) If the enforcement agency determines that a person is~~
10 ~~operating a solid waste facility in violation of subdivision (a), the~~
11 ~~enforcement agency shall immediately issue a cease and desist~~
12 ~~order pursuant to Section 45005 ordering the facility to~~
13 ~~immediately cease all activities for which a solid waste facilities~~
14 ~~permit is required and desist from those activities until the person~~
15 ~~obtains a valid solid waste facilities permit authorizing the activities~~
16 ~~or has obtained other authorization pursuant to this division.~~

17 ~~(c) Notwithstanding any other provision of this division, an~~
18 ~~enforcement agency shall not issue a solid waste facilities permit,~~
19 ~~on or after January 1, 2012, if that permit would allow the disposal~~
20 ~~of solid waste within 500 feet of an aquifer that provides a source~~
21 ~~of drinking water for more than 50,000 persons, or within 1,000~~
22 ~~feet of a site considered to be sacred and of spiritual importance~~
23 ~~to a federally recognized Indian tribe.~~